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04-17-03

PATENT
Attorney Docket No. 81974

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
PRATAP MALIK)
)
Serial No.: 09/779,984) Group Art Unit: 1644
)
Filed: February 9, 2001) Examiner: D. Saunders
)
For: A PREPARATION FOR USE IN)
CELL CULTURE IN WHICH)
AN INTERFERING COMPOUND)
IS ABSENT OR DEPLETED)

Box Non-Fee Amendment
Commissioner for Patents
Washington, D.C. 20231

Sir:

REQUEST TO CREDIT DEPOSIT ACCOUNT FOR ERRANT CHARGING OF FEE

This is a request to credit Deposit Account No. 111755 for the errant charging of a fee by the Patent Office in connection with the above-identified patent application.

Enclosed herewith please find a copy of a Monthly Statement of Deposit Account dated November 29, 2002, for Deposit Account No. 111755. As can be seen therein, Deposit Account No. 111755 has been charged \$55 by the Patent Office in connection with the subject application. The fee code for said charging is 2251, indicating that the fee charged was for a 1-month extension of time (small entity).



For the reasons below, it is respectfully submitted that the aforementioned charging of Deposit Account No. 111755 for a 1-month extension of time was in error as no such extension was necessary.

The Patent Office mailed an Office Action on September 27, 2002, said Office Action containing a restriction requirement and setting a one month period for response. Accordingly, a response was due on October 27, 2002. However, because October 27, 2002 was a Sunday, the period for response was effectively extended to Monday, October 28, 2002.

Applicant filed a response to the September 27, 2002 Office Action on Monday, October 28, 2002. A copy of said response is submitted herewith. As can be seen, said response included a certificate of mailing dated October 28, 2002. Accordingly, the response was timely and did not require a one-month extension of time.

Therefore, the undersigned respectfully requests that the Patent Office credit Deposit Account No. 111755 in the amount of \$55 for the errant charging of the fee for a one-month extension.

If, for some reason, the Patent Office is unable to credit Deposit Account No. 111755 for the overpayment, the undersigned respectfully requests that a check in the amount of \$55 be issued to KRIEGSMAN & KRIEGSMAN, 665 Franklin Street, Framingham, MA 01702.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Patent Office is authorized to charge the fees to our Deposit Account No. 111755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.



Respectfully submitted,

Kriegsman & Kriegsman

By: *Edward M. Kriegsman*

Edward M. Kriegsman
Reg. No. 33,529
665 Franklin Street
Framingham, MA 01702
(508) 879-3500

Dated: *January 10, 2003*

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box Non-Fee Amendment, Commissioner for Patents, Washington, D.C. 20231 on *January 10, 2003*

Edward M. Kriegsman
Edward M. Kriegsman
Reg. No. 33,529

Dated: *January 10, 2003*



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

**MONTHLY STATEMENT
OF DEPOSIT ACCOUNT**

To replenish your Deposit Account, detach and
return top portion with your check. Make check
payable to Commissioner of Patents & Trademarks.

| | |
|-------------|----------|
| Account No. | 111755 |
| Date | 11-29-02 |
| Page | 1 |

KRIEGSMAN & KRIEGSMAN

FINA

665 FRANKLIN STREET

FRAMINGHAM MA 01702

PLEASE SEND REMITTANCES TO:
Patent and Trademark Office
P.O. Box 70541
Chicago, Ill. 60673

| DATE POSTED | | | CONTROL NO. | DESCRIPTION (Serial, Patent, TM, Order) | DOCKET NO. | FEE CODE | CHARGES/ CREDITS | BALANCE |
|-------------|-----|-----|----------------|--|------------|-------------|---------------------|---------|
| MO. | DAY | YR. | | | | | | |
| 11 | 14 | 02 | 22 | PCT/US01/10710 | | 9204 | =260.00 | 829.00 |
| 11 | 15 | 02 | 6 | 09779984 | 2534/101 | 2251 | 55.00 | 774.00 |
| 11 | 22 | 02 | 9 | 29165777 | 81767 | 2251 | 55.00 | 719.00 |
| 11 | 29 | 02 | 100 | SERVICE CHARGE | | 9202 | 25.00 | 694.00 |

AN AMOUNT SUFFICIENT TO
COVER ALL SERVICES REQUESTED
MUST ALWAYS BE ON DEPOSIT.

OPENING BALANCE
569.00

TOTAL CHARGES
135.00

TOTAL CREDITS
260.00

CLOSING BALANCE
694.00



Patent Attorney
Docket No. 81974

Reg. & Rep. room
307

TRANSMITTAL LETTER

Inventors: Pratap Malik
Serial No: 09/779,984
Date filed: February 9, 2001
Confirmation No.

Group Art Unit: 1644
Examiner: D. Saunders
Date Due:

For: A PREPARATION FOR USE IN CELL CULTURE IN WHICH AN INTERFERING COMPOUND IS ABSENT OR DEPLETED

Box Non-Fee Amendment
Commissioner for Patents
Washington, D. C. 20231

Dear Sir:


Transmitted herewith for the above-identified patent application are the following:

Request to Credit Deposit Account for Errant Charging of Fee
Copy of Monthly Statement of Deposit Account
Copy of response filed October 28, 2002
A return postcard

The item(s) checked below are appropriate:

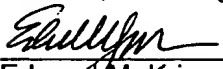
1. ☐ Applicant(s) hereby petitions for a () month extension of time to respond to an dated
2. ☒ Please charge any fees or costs not accounted for to Deposit Account No. 11-1755.
3. ☒ Applicant is a small entity.

Date: January 10, 2003


Edward M. Kriegsman
Reg. No. 33,529

KRIEGSMAN & KRIEGSMAN
665 Franklin Street
Framingham, MA 01702
(508) 879-3500

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Edward M. Kriegsman

Received in the U.S. Patent and Trademark Office in re
the application of:

Applicant: Pratap Malik

Serial No: 09/779,984

Filing Date: February 9, 2001

FOR: A PREPARATION FOR USE IN CELL CULTURE
IN WHICH AN INTERFERING COMPOUND IS
ABSENT OR DEPLETED

Included are:

A Response to Restriction Requirement

A Transmittal letter

81974

10-28-02

Received in the U.S. Patent and Trademark Office in re
the application of:

Applicant: Pratap Malik

Serial No: 09/779,984

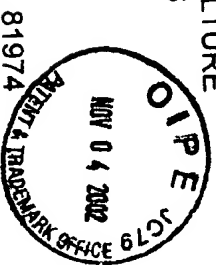
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Patent Attorney
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TRANSMITTAL LETTER

Inventor: PRATAP MALIK
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A return postcard

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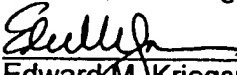
1. ☐ Applicant(s) hereby petitions for a one () month extension of time to respond to an dated
2. ☒ Please charge any fees or costs not accounted for to Deposit Account No. 11-1755.
3. ☒ Applicant is a small entity.

Date: October 28, 2002


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Edward M. Kriegsman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Serial No.: 09/779,984 |) | Group Art Unit: 1644 |
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| IS ABSENT OR DEPLETED |) | |

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Commissioner for Patents
Washington, D.C. 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In an Office Action dated September 27, 2002, in the above-identified patent application, the Patent Office communicated the following election of invention requirement:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-7, drawn to a cell culture medium deficient in a compound, classified in class 435, subclass 404+.

II. Claims 8-30, drawn to methods of preparing a cell culture medium/eluant, classified in class 435, subclass 404+ and class 530, subclass 413+.

In response to the foregoing election of invention requirement, Applicant respectfully elects Group II, claims 8-30.

In addition to the foregoing election of invention requirement, the Patent Office also communicated the following election of species requirement in the outstanding Office Action:

This application contains claims directed to the following patentably distinct species of the claimed invention:

In the event Group I is elected the embodiments in which the compound is a serum antibody, a cytokine, a hormone, a growth factor, a peptide, serum albumin, an MHC binding protein fragment/peptide, viral antigens, bacterial antigens, a complement protein.

In the event Group II is elected the embodiments in which the first protein/cell culture product is a monoclonal antibody, a cytokine, a growth factor, an MHC protein; or in which the second protein/compound is a polyclonal serum antibody, a cytokine, an MHC binding protein or fragment, a growth factor.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 3, 8-15, and 18-22 are generic.

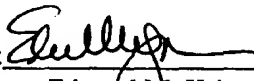
Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

In response to the foregoing requirement, Applicant respectfully elects the species in which "the first protein/cell culture product" is a monoclonal antibody and in which "the second protein/compound" is a polyclonal serum antibody. Claims 8-16, 18-23 and 27 are readable on the elected species.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

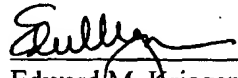
Respectfully submitted,

Kriegsman & Kriegsman

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Dated: October 28, 2002

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Edward M. Kriegsman
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Dated: October 28, 2002